

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 525, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 taxation.
- 4 Page 1, between lines 12 and 13, begin a new paragraph and insert:
- 5 "SECTION 2. IC 6-3.1-28-9 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) If the amount of
- 7 the credit determined under this chapter for a taxpayer in a taxable year
- 8 exceeds the taxpayer's state tax liability for that taxable year, the
- 9 taxpayer may carry over the excess to the following taxable years. The
- 10 amount of the credit carryover from a taxable year shall be reduced to
- 11 the extent that the carryover is used by the taxpayer to obtain a credit
- 12 under this chapter for any subsequent taxable year.
- 13 (b) A taxpayer is not entitled to a carryback or refund of any unused
- 14 credit. **A taxpayer may not sell, assign, convey, or otherwise**
- 15 **transfer the tax credit provided by this chapter."**
- 16 Page 2, line 16, after "\$20,000,000)" insert "**for all taxpayers for**
- 17 **all taxable years,"**.
- 18 Page 2, line 16, after "of" insert "**tax credits for"**.
- 19 Page 2, delete lines 23 through 42, begin a new paragraph and
- 20 insert:

"SECTION 4. IC 6-3.1-29-15, AS AMENDED BY P.L.122-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) **If the corporation decides to award a tax credit under this chapter to a taxpayer, and** subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in an integrated coal gasification powerplant is equal to the sum of the following:

(1) Ten percent (10%) of the taxpayer's qualified investment for the first five hundred million dollars (\$500,000,000) invested.

(2) Five percent (5%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000) only if the facility is dedicated primarily to serving Indiana retail electric utility consumers.

(b) Subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in a fluidized bed combustion technology is equal to the sum of the following:

(1) Seven percent (7%) of the taxpayer's qualified investment for the first five hundred million dollars (\$500,000,000) invested.

(2) Three percent (3%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000).

SECTION 5. IC 6-3.1-29-19, AS AMENDED BY P.L.122-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) **If the corporation decides to award a tax credit under this chapter to an applicant,** the corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The maximum tax credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(5) If the facility is an integrated coal gasification powerplant, a requirement that the taxpayer shall pay an average wage to its employees at the integrated coal gasification powerplant, other

than highly compensated employees, in each taxable year that a tax credit is available, that equals at least one hundred twenty-five percent (125%) of the average county wage in the county in which the integrated coal gasification powerplant is located.

(6) For a project involving a qualified investment in a coal gasification powerplant, a requirement that the taxpayer will maintain at the location where the qualified investment is made, during the term of the tax credit, a total payroll that is at least equal to the payroll that existed on the date that the taxpayer placed the integrated coal gasification powerplant into service.

(7) A requirement that:

(A) one hundred percent (100%) of the coal used:

(i) at the integrated coal gasification powerplant, for a project involving a qualified investment in an integrated coal gasification powerplant; or

(ii) as fuel in a fluidized bed combustion unit, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is dedicated primarily to serving Indiana retail electric utility consumers;

must be Indiana coal; or

(B) seventy-five percent (75%) of the coal used as fuel in a fluidized bed combustion unit must be Indiana coal, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is not dedicated primarily to serving Indiana retail electric utility consumers.

(8) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public convenience and necessity require, or will require:

(A) the construction of the taxpayer's integrated coal gasification powerplant, in the case of a project involving a qualified investment in an integrated coal gasification powerplant; or

(B) the installation of the taxpayer's fluidized bed combustion unit, in the case of a project involving a qualified investment in a fluidized bed combustion technology.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually

- 1 determine whether the taxpayer is in compliance with the agreement.
 2 If the corporation determines that the taxpayer is in compliance, the
 3 corporation shall issue a certificate of compliance to the taxpayer.".
- 4 Delete pages 3 through 8.
- 5 Page 9, delete lines 1 through 2.
- 6 Page 9, line 10, after "wood wastes" insert ",".
- 7 Page 9, line 10, delete "and residues," and insert "**including wood**
 8 **residues, forest thinnings, mill residue wood, clean construction**
 9 **and demolition waste (but excluding treated or painted lumber),"**.
- 10 Page 9, line 40, delete "or".
- 11 Page 9, line 41, delete "." and insert ";".
- 12 Page 9, between lines 41 and 42, begin a new line block indented
 13 and insert:
- 14 **"(5) a corporation organized under IC 8-1-13; or**
 15 **(6) a corporation organized under IC 23-17-1 that:**
 16 **(A) is an electric cooperative; and**
 17 **(B) has at least one (1) member that is a corporation**
 18 **organized under IC 8-1-13."**
- 19 Page 10, line 5, delete "and".
- 20 Page 10, line 6, after ";" insert "**and**".
- 21 Page 10, between lines 6 and 7, begin a new line block indented and
 22 insert:
- 23 **"(4) IC 6-2.3 (the utility receipts tax);"**.
- 24 Page 10, line 16, delete "office;" and insert "**corporation;**".
- 25 Page 10, between lines 32 and 33, begin a new line block indented
 26 and insert:
- 27 **"(4) Against the taxpayer's liability incurred under IC 6-2.3**
 28 **(the utility receipts tax)."**
- 29 Page 10, line 33, delete "The" and insert "**(a) If the corporation**
 30 **decides to award a tax credit under this chapter to a taxpayer, the"**.
- 31 Page 10, line 33, after "which" delete "a" and insert "**the**".
- 32 Page 10, line 34, delete "lesser of the following:" and insert
 33 "**product of:**
- 34 **(1) the amount of the taxpayer's qualified investment;**
 35 **multiplied by**
 36 **(2) ten percent (10%).**
- 37 **(b) The total amount of tax credits awarded under this chapter**
 38 **may not exceed fifty million dollars (\$50,000,000) for all taxpayers**

1 **and all taxable years."**

2 Page 10, delete lines 35 through 39.

3 Page 11, between lines 6 and 7, begin a new paragraph and insert:

4 **"(c) If the credit allowed by this chapter is available to a**
 5 **member of an affiliated group of corporations filing a consolidated**
 6 **return under IC 6-2.3-6-5 or IC 6-3-4-14, the credit shall be applied**
 7 **against the state tax liability of the affiliated group."**

8 Page 11, delete lines 14 through 15, begin a new line block indented
 9 and insert:

10 **"(2) in the case of a pass through entity described in:**

11 **(A) section 7(1), 7(2), 7(3), or 7(4) of this chapter, the**
 12 **percentage of the pass through entity's distributive income**
 13 **to which the shareholder, partner, or member is entitled;**
 14 **or**

15 **(B) section 7(5) or 7(6) of this chapter, the relative**
 16 **percentage of the corporation's patronage dividends**
 17 **allocable to the member for the taxable year."**

18 Page 11, line 28, delete "person" and insert "A taxpayer".

19 Page 11, line 39, delete "The" and insert **"If the corporation**
 20 **decides to award a tax credit under this chapter to an applicant,**
 21 **the"**.

22 Page 11, line 40, delete "an" and insert **"the"**.

23 Page 11, line 40, after "applicant" insert **"."**.

24 Page 11, line 40, delete "that is awarded a credit under this
 25 chapter."

26 Page 12, line 32, delete "19." and insert **"20."**.

27 Page 12, line 36, delete "18" and insert **"19"**.

28 Page 12, delete lines 39 through 42, begin a new paragraph and
 29 insert:

30 **"SECTION 10. IC 8-1-8.8-10 IS AMENDED TO READ AS**
 31 **FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) As used in this**
 32 **chapter, "renewable energy resources" means alternative sources of**
 33 **renewable energy, including the following:**

34 (1) Energy from wind.

35 (2) Solar energy.

36 (3) Photovoltaic cells and panels.

37 (4) Dedicated crops grown for energy production.

38 (5) ~~Organic waste~~ Biomass **(as defined by IC 6-3.1-34-1).**

- 1 (6) Hydropower from existing dams.
 - 2 (7) Fuel cells.
 - 3 (8) Energy from waste to energy facilities producing steam not
 - 4 used for the production of electricity.
 - 5 (b) Except for energy described in subsection (a)(8), the term does
 - 6 not include energy from the incinerations, burning, or heating of any of
 - 7 the following:
 - 8 (1) Waste wood.
 - 9 (2) Tires.
 - 10 (3) General household, institutional, commercial, industrial
 - 11 lunchroom, office, or landscape waste.
 - 12 (4) Construction or demolition debris."
 - 13 Delete pages 13 through 14.
 - 14 Page 15, delete lines 1 through 3.
 - 15 Page 15, line 7, delete "IC 6-3.1-31, IC 6-3.1-32, IC 6-3.1-33, and".
 - 16 Page 15, line 7, delete "all".
 - 17 Page 15, line 8, delete "apply" and insert "**applies**".
 - 18 Renumber all SECTIONS consecutively.
- (Reference is to SB 525 as printed February 2, 2007.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

Kenley

Chairperson